



Legislative Testimony
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**Written Testimony Supporting Senate Bill 1098,
An Act Concerning the Testimony of Jailhouse Witnesses**

Senator Winfield, Representative Stafstrom, and distinguished members of the Judiciary Committee:

My name is David McGuire, and I am executive director of the American Civil Liberties Union of Connecticut (ACLU-CT). I am submitting this testimony in support of Senate Bill 1098, An Act Concerning the Testimony of Jailhouse Witnesses.

As an organization that fights for access to fair and just trials, the ACLU-CT supports measures to ensure innocent people are not found guilty and incarcerated. We therefore support Senate Bill 1098, which would add safeguards against the use of unreliable testimony in criminal cases. The bill would require prosecutors to provide information about jailhouse informants and the deals they are making with them to defendants in a timely manner. This would create more transparency about prosecutors' work in particular cases, which would allow defendants and their attorneys to access pertinent information to defend themselves and their clients. The bill would also allow defendants to request a hearing on whether testimony from jailhouse witnesses is reliable and admissible. If prosecutors cannot demonstrate that the testimony of a jailhouse witness is reliable, the bill requires a court to prohibit the testimony's admission. This would ensure that false accusations could not sway a jury in a case.

This bill would create important safeguards against the use of unreliable testimony that could impact the outcome of a case. Jailhouse informants often receive leniency in their own cases or benefits if they testify, which creates an incentive for people to make false accusations and testify about events that did not happen. Unfortunately, this has led to many innocent people going to prison, and even ending up on death row. According to a March 2019 report by the Innocence Project, "jailhouse informant testimony is one of the leading contributing factors of wrongful convictions nationally, playing a role in nearly one in five of the 364 DNA-based exoneration cases."¹ With testimony from jailhouse informants leading

¹ Innocence Project. (March 6, 2019). *Informing Justice: The disturbing use of jailhouse informants*. Retrieved from <https://www.innocenceproject.org/informing-injustice/#>.

to so many wrongful convictions, it is imperative that there be safeguards in place to protect innocent defendants in criminal cases.

By passing this bill, Connecticut would follow in the footsteps of states across the country that have put safeguards into law to protect innocent people from the false testimony of jailhouse informants. Florida, Illinois, Oklahoma, and Texas have all passed laws creating such safeguards.

The bill also includes a reporting requirement that would require the Division of Criminal Justice to report to the Office of Policy and Management (OPM) on its use of jailhouse witnesses. Though the bill requires OPM to keep a statewide record of this information, the ACLU-CT recommends that the committee amend the bill to also require OPM to post the reports on its website. This would increase transparency about prosecutors' work for the public and policymakers, allowing for the implementation of reform of how jailhouse witness testimony is used, if needed. Additionally, the language of the bill does not impose a deadline by which the Division of Criminal Justice must submit its reports to OPM. We suggest the committee require annual reporting to OPM and the annual publication of reports on OPM's website.

No person should end up in prison because of false testimony. We strongly encourage the committee to support Senate Bill 1098 to institute safeguards to protect defendants from unreliable testimony in Connecticut's criminal justice system.

